



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

FILED

FEB 13 2022

PURSUANT TO ROH Sec. 1-2.4

ORDINANCE

12 (2020)

BILL

A BILL FOR AN ORDINANCE

RELATING TO REAL PROPERTY TAX EXEMPTIONS FOR RESIDENTIAL REAL PROPERTY DEDICATED FOR PRESERVATION.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the minimum real property tax for historic residential real property dedicated for preservation.

SECTION 2. Section 8-11.1, Revised Ordinances of Honolulu 1990 ("Real property tax--Determination of rates"), is amended by amending subsection (g) to read as follows:

"(g) Notwithstanding any provision to the contrary, a minimum real property tax of \$300.00 a year is levied upon each individual parcel of real property taxable under this chapter, except for properties exempt under Section 8-10.27, and except as otherwise provided in Section 8-10.22(m) and Section 8-10.28(b)(2)."

SECTION 3. Section 8-10.22, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 8-10.22 Exemption--Historic residential real property dedicated for preservation.

(a) As used in this section:

"Alternative visual visitations" means the alternative visual access provided to the public from a viewing point on the property.

"Average condition of property" means a finding by the director that all major components of a property are still functional and contributing toward an extended life expectancy and effective age and utility are standard for like properties of its class and usage; this finding will allow for some deferred maintenance and normal obsolescence with age, in that a few minor repairs and some refurbishing is needed.

"Day" means the seven consecutive hours running from 9:00 a.m. to 4:00 p.m.

"Historic property" means property that has been placed on the Hawaii Register of Historic Places.



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"Public way" means ~~[and includes]~~ any area open to the general public, such as a road, alley, street, way, right-of-way, lane, trail, bikeway, highway, bridge, sidewalk, park, or beach and any private property usually open to the public, such as a parking lot.

"Residential property" means property improved with a ~~[one]~~ one- or two-family detached dwelling or a duplex unit. This definition includes associated structures, such as carriage houses, ohana units, accessory dwelling units, and outbuildings. This definition specifically excludes vacant parcels, districts, areas, or sites, including heiaus, burial sites, and underwater sites.

"Visual access" means visual access at all times with the unaided eye from a distance of not more than 50 feet from the owner's property line from a public way as defined in this section, of the entire front or rear of the ~~[one]~~ one- or two-family detached dwelling or duplex unit that is the subject of the petition for dedication under this section.

- (b) An owner of taxable historic residential property may dedicate a portion or portions of the residential property ~~[thereof]~~ for historic preservation by petitioning the director of budget and fiscal services, provided the residential property has visual access or the owner allows alternative visual visitations.
- (1) If the historic residential property does not provide visual access, the petition shall provide the public with alternative visual visitations to the property from a viewing point on the historic residential property for at least the ~~[twelve]~~ 12 days a year designated in the rules adopted by the director.
- (2) The viewing point on the historic residential property for alternative visual visitations shall:
- (A) Be clearly identified on the sketch or site plan included in the petition for dedication;
 - (B) Be identified by a sign on the historic residential property marking the location of the viewing point~~[-]~~; and
 - (C) Establish the point beyond which the public shall not advance.



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- (c) The director shall prescribe the form of the petition. The petition shall be filed with the director by September ~~[4th]~~ 1 of any calendar year. The notice of assessment shall serve as notification of approval, approval in part, or disapproval of the petition for dedication. The owner may appeal any petition for dedication approved in part or disapproved, on or before the date for appealing an assessment as set forth in ~~[section]~~ Section 8-12.1. If the petition is approved or approved in part, the exemption provided for by this section shall be effective October ~~[4th]~~ 1 of the same calendar year.
- (d) The director shall review the petition and determine what portion or portions of the residential real property shall be exempted from real property taxes. Any building or portion of a building less than ~~[fifty]~~ 50 years old shall not be exempted from real property taxes. The director shall consult with the state historic preservation office in making this determination. The director shall take into consideration whether the historic property has been maintained, at a minimum, in average condition, and shall determine the total area or areas of real property that shall be exempted. The director shall confirm that the historic residential property has visual access. If the director determines that the historic residential property does not provide visual access, then the director shall confirm that the petition provides the public with acceptable alternative visual visitations.
- (e) If the director determines that the historic residential property does not provide visual access to the public ~~[or]~~ and that the petition does not provide the public with acceptable alternative visual visitations, the application for dedication shall be denied.
- (f) Portions of residential real property ~~[which]~~ that are dedicated and approved by the director as provided for by this section, ~~[shall]~~ will be exempt from real property taxation to the extent provided under subsection (m), except as provided by Section 8-9.1.
- (g) The approval of the petition by the director ~~[shall constitute]~~ establishes an obligation on the part of the owner to meet the following requirements:
- (1) The owner ~~[shall]~~ must provide visual access to the public of the dedicated historic residential property, or ~~[shall]~~ provide alternative visual visitations as described in the approved petition;
 - (2) The owner ~~[shall]~~ must certify that the historic property ~~[shall]~~ will meet or exceed average condition, and, during the dedicated period, ~~[shall]~~ must



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maintain the historic property in at least average condition. All repair, maintenance, and improvements to the property, and use of the property, ~~[shall]~~ must comply with all statutes, ordinances, rules and regulations, and standards for historic properties; and

- (3) The owner of a historic residential property that has been approved for dedication pursuant to this section shall place and maintain on the dedicated historic residential property a plaque that has been approved by the director and the state historic preservation officer~~[-The director shall adopt rules prescribing the requirements for such a plaque];~~

for a minimum period of 10 years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time after the end of the fifth year. Legally permitted uses of the historic residential property may continue during the dedication period without cancellation of the dedication.

- (h) An owner may appeal any cancellation of the dedication or imposition of any rollback tax or penalty as in the same manner as an appeal from an assessment.
- (i) Any person who becomes an owner of historic residential property that is subject to a dedication under this section shall be subject to the requirements imposed under subsection (g).
- (j) The director shall cancel the dedication and disallow the tax exemption if:
- (1) ~~[the]~~ The owner fails to observe the requirements and obligations of this section and the rules adopted to implement this section~~[-];~~
 - (2) ~~[a]~~ A city department issues a citation for noncompliance with or violation of ~~[chapters]~~ Chapters 16 through 21~~[-];~~ or
 - (3) ~~[the]~~ The property is removed from the historic register.

The cancellation and disallowance shall subject the owner to a rollback tax and penalty, retroactive to the date of the last 10-year renewal of the dedication. All differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed by this section shall be payable, together with a 12 percent penalty and interest at 12 percent per year for each year of the rollback tax provided the provision in this subsection shall not preclude the city



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from pursuing any other remedy to enforce the covenant on the use of the property.

- (k) The director shall cancel the dedication and the retroactive assessment shall not apply:

(1) ~~[where]~~ Where the owner submits the written notice of cancellation within the prescribed time as provided in subsection (g); and

(2) ~~[where]~~ Where the subject property is destroyed by any natural disaster or by fire, and upon verification by the Historic Preservation Officer that the restoration or reconstruction of the property is not feasible.

- (l) The director shall adopt rules ~~[and regulations]~~ pursuant to HRS Chapter 91 deemed necessary [to accomplish the foregoing in accordance with HRS Chapter 91-] implement, administer, and enforce this section, including rules prescribing the requirements for plaques required under subsection (g).

- (m) All properties or portions of properties receiving an exemption under this section shall be subject to a real property tax which is the lesser of: (1) the tax based upon 100 percent of the property's fair market value determined in the manner provided by ordinance, at such a rate as shall be determined in the manner provided in Section 8-11.1, less any applicable exemptions, refunds, or credits; or (2) \$1,000."

SECTION 4. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.




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HONOLULU, HAWAII

ORDINANCE _____
BILL 12 (2020)

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SECTION 5. This ordinance takes effect upon its approval and applies to the tax years beginning July 1, 2021 and thereafter.

INTRODUCED BY:



DATE OF INTRODUCTION:

FEB 13 2020

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu